

U.S. Department  
of Transportation

United States  
Coast Guard



Commander  
Eighth Coast Guard District  
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16711/APPEALS

June 30, 1999

Mr. Richard C. Wigger  
Compliance Systems, Inc.  
Hamilton House  
26 Bryan Street  
Savannah, GA 31401

Dear Mr. Wigger:

I have reviewed your February 12, 1999 appeal of the decision of the Officer in Charge Marine Inspection (OCMI) Mobile requiring installations of a fire suppression system in the dry cargo compartment and a deck foam system on the Cypriot flagged M/V ROSELLEN (L7816111). After carefully considering your arguments and the applicable laws and regulations, I have decided to grant your appeal in part.

The M/V ROSELLEN is a 4271 GT (5173 DWT) vessel which was built in February 1979 and which carries tallow and vegetable oil as secondary cargoes. This vessel meets the definition of a tank vessel in 46 USC 2101(39) since it carries and discharges Category D Noxious Liquid Substances (NLS) within U.S. waters. Therefore, the M/V ROSELLEN must undergo annual examinations by U.S. Coast Guard marine inspectors pursuant to 46 USC 3711 and have a valid Tank Vessel Exam Letter (TVEL) prior to conducting any cargo operations in U.S. waters which involve its NLS cargoes. In this regard, the OCMI is correct to treat the M/V ROSELLEN as a tank ship and require it to hold a valid TVEL. However, I agree with your argument that, even as a tank ship, this vessel should not be required to have a fire suppression system to protect its dry cargo compartment nor should it be required to have a deck foam system.

While the M/V ROSELLEN must comply with portions of 46 CFR Subchapter D, chapter 21 of the Marine Safety Manual (MSM) Volume II amplifies the Commandant's policy for enforcing these regulations. As stated in MSM Vol II, 21.B.2, foam systems are only required on new foreign flagged tankers 20,000 DWT and over. Since the M/V ROSELLEN is not new, as defined in 46 USC 3701(3), and is less than 20,000 DWT, it is not required to have a foam system. Additionally, this section of the Marine Safety Manual states that "*No other section of 46 CFR 34.05 applies to foreign flagged tankers.*" This implies that the requirement in 46 CFR 34.05-5(a)(1) for fire suppression systems in dry cargo compartments is **not** applicable to the M/V ROSELLEN.

In summary, the M/V ROSELLEN must be examined and operated as a foreign flag tank ship while engaged in NLS cargo operations in U.S. waters, but is not required to have a fire suppressing system in its dry cargo hold nor is it required to have a deck foam system.

June 30, 1999

If you feel aggrieved by my decision to continue inspecting the M/V ROSELLEN as a tank ship while it carries a regulated cargo in US waters, you have the right to appeal to Commandant (G-MOC), via this office, in accordance with the procedures in 46 CFR 1.03-25. Should you need any further information please contact Lieutenant Commander Mike Brown of my staff at (504) 589-6743.

Sincerely,

A handwritten signature in black ink, appearing to read "C. T. Desmond". The signature is fluid and cursive, with the first name "C. T." being more distinct than the last name "Desmond".

C. T. DESMOND  
Captain, U.S. Coast Guard  
Chief, Marine Safety Division  
By direction of the Commander  
Eighth Coast Guard District

Copy: Commandant (G-MOC)